IN THE HIGH COURT OF DELHI AT NEW DELHI

Bail Application No.3701/2006

Mohan Singh .....Petitioner

VERSUS

$ State .....Respondent

Bail Application No.1191/2007

Harinder Singh .....Petitioner

VERSUS

$ State .....Respondent

^ through: Mr.K.K.Sareen with Mr.Ravi Mehta
for the petitioner
Mr. Anil Soni for the State
Mr.S.C.Bhuttan with Mr.Parvesh Bhuttal
for the complainant

% **D**ATE OF DECISION: 09-08-2007

CORAM:

* **Hon'ble Mr.Justice Pradeep Nandrajog**

1. Whether reporters of local papers may be allowed to see the judgment?

2. To be referred to the Reporter or not?

3. Whether judgment should be reported in Digest?

: PRADEEP NANDRAJOG, J.

FIR.No.641/2006
U/S 304B/498A/34 IPC
P.S. Tilak Marg

1. Petitioners, father and son have approached this court for relief. Whereas the son, Harinder Singh seeks bail, father seeks anticipatory bail.

2. Harinder Singh is in judicial custody since 18.9.2006.

3. It is not in dispute that a challan has been presented and a charge has been framed against the petitioners under Section 498A/306 IPC. It is also not in dispute that pertaining to the order framing charge, a revision petition is pending in this court where the prayer made is that a charge needs to be framed under Section 304B IPC.

4. Thus, position as of today would be that the petitioners would be entitled to a consideration of the matter as if they are charged under Section 498A/306 IPC.

5. Conscious of the fact that considering the menace of dowry a charge even under Section 306 IPC is a serious offence, I have proceed to embark the journey with extra care and caution.

6. Gurpreet Kaur was married to Harinder Singh on 3.10.2003. A daughter was born to the couple. Unfortunately, Gurpreet Kaur committed suicide on 25.8.2006. Her aggrieved father made a complaint that the in-laws of her daughter were harassing her for dowry. He stated that on the pretext that his daughter was ill lot of money was being spent on her treatment,

money was being demanded from him by the in-laws of her daughter and that in the month of September,2004 he had given Rs.40,000/- in cash.

7. Petitioners have shown to me the voluminous medical record pertaining to the medical treatment of the deceased.

8. The same shows that right through her married life, the deceased was under constant medical treatment. She had a kidney problem. Diagnostic report of the Department of Nuclear Medicine of Saral Diagnostic (at page 10 of Bail Application No.3701/06) records a disfunctional right kidney. The problem diagnosed is recorded as under :

> "The right kidney is enlarged, present in its normal location in the lumbar region. Arterial perfusion to this kidney is reduced and delayed in time following tracer appearance in the abdominal aorta. Initial Te-99m DTPA uptake is significantly reduced with presence of cortical thinning. Serial images and region of interest generated time activity curves reveal gradual tracer accumulation in the dilated calyceal system with complete tracer fili-in seen on the delayed 1.5 hr image. Tracer hold up is noted in the upper pole of this kidney, which does not clear on delayed images and on forced diuresis using intravenous frusemide. Tracer hold up in the upper pole of this kidney clears promptly on unclaiming the nephrostomy tube, with flow of radiolabelled urine seen through the nephrostomy tube.

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> Enlarged right kidney with severe hydronephrotic changes and associated impairment of glomerular function.
>
> Tracer hold up is noted at upper pole of right kidney which clears promptly through the nephrostomy tube on forced diursis."

9. The medical record shows that the deceased was under medical treatment and medication pertaining to renal problem on the day she died. Viscera report shows that the deceased had taken crocin. The medical record shows that the deceased was visiting various doctors of repute for treatment. The medical record pertains to treatment undergone at All Institute of Medical Sciences, Saat Manjila Shri Sanatan Dharam Charitable Hospital, Tilak Nagar, Kartic Nursing Home & Urology Centre, as also treatment by Dr.G.R.V.R.Reddy, Ex.Medical Officer of Dr.Ram Manohar Lohia Hospital.

10. The two families come from a middle class background. The possibility of both families being stressed due to high cost of medical treatment cannot be ruled out. Even in the complaint lodged with the police by the father of the deceased, he has stated that the in-laws of his daughter demanded money from him for the treatment of his daughter. Prima facie, the demand, if at all made, would not be a dowry demand.

11. What shape would the trial ultimately take would

depend upon the evidence. But while considering whether the husband should be admitted to bail and whether father-in-law should be granted anticipatory bail, it becomes relevant to weigh the probabilities of the evidence which would come on record viz-a-viz the final shape of the adjudication which may take place. For if, there is a probability that defence may succeed in establishing that the deceased took her life as she was frustrated due to her prolonged sickness, case would be made out to grant the relief prayed for.

12. The allegations by the father of the deceased in the complaint are suggestive of demand for money by the in-laws for the medical treatment of the deceased. Prima facie it was not for the personal benefit of the in-laws. Possibility of the deceased ending her life out of frustration and to free her family from economic bondage cannot be ignored at this stage.

13. Question of petitioners tampering with evidence does not arise as the police has collected all evidence and the challan has already been filed.

14. Witnesses of the prosecution the parents and the family members of the unfortunate girl who has suffered an untimely death. There is thus no possibility of the petitioners influencing any witness.

15. Clarifying that if revision petition filed against the order framing charge succeeds and it is held that case is made out to frame a charge under Section 304 IPC, it would be open to the State to file an appropriate application seeking modification or cancellation of the instant order, the two petitions stand disposed of with the following directions :-

a) Bail Application No.3701/2006 is disposed of extending the interim protection of said petitioner by a further period of 4 weeks. Since challan has already been filed, said petitioner would seek a regular bail from the learned Trial Judge who is directed not to require the petitioner to formally surrender as a condition precedent for deciding the application seeking regular bail.

b) Petitioner of Bail Application No.1191/2007 is directed to be admitted to bail by the learned Trial Judge on his furnishing a personal bond in sum of Rs.20,000/- with one surety in the like amount to the satisfaction of learned Trial Judge in the above captioned FIR.

16. It is hoped and expected that pertaining to the application seeking regular bail to be filed by Mohan Singh, learned Trial Judge would keep in mind the present order and the

fact that the husband of the deceased has been directed to be admitted on bail by and under the present order.

17. Copy of this order be supplied dasti to learned counsel for the parties.

August 09, 2007 **PRADEEP NANDRAJOG, J.**
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